



**U.S. Army Corps
of Engineers**
Pittsburgh District

Public Notice

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 2006-1083

Date: September 6, 2007

Notice No. 07-36

Closing Date: October 5, 2007

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: Ohio American Energy, Inc.
153 Highway 7 South
Powhatan Point, OH 43942
3. LOCATION: The project is located in Sections 5, 6, 11, and 12 of Wells Township in Jefferson County, Ohio. The site coordinates: Latitude 40°17'15"N, Longitude 80°40'21"W.
4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to conduct surface re-mining and highwall miner auger operations on approximately 800 acres to extract the Pittsburgh No.8 and Pomeroy No.8A coal seams. The proposed mining area has been impacted by pre-law mining activities and currently contains evidence of these activities, such as approximately 26,250 linear feet (FT) of highwalls and old pit impoundments. Both surface and ground water have been impacted by the unreclaimed areas. Following this activity, final reclamation will be completed and the land will be restored to pre-mining use. The proposed mining activity will impact approximately 4,756 (LF) of jurisdictional disturbed and undisturbed perennial, intermittent, and ephemeral stream channel (974, 3,432, and 350 respectfully). The proposed project will also affect two jurisdictional open water pit impoundments totaling 3.09 acres and 1.45 acres of palustrine emergent wetland habitat. On-site, in-kind mitigation is proposed to compensate for stream lengths and wetland acreage and functions lost as a result of the mining activities. By reclaiming the abandoned minelands, recreating instream and wetland habitats, and re-establishing pre-mining drainage patterns, ecological functions of surface waters within the immediate watershed should reflect pre-law

conditions. Mitigation includes reconstructing stream channels utilizing Natural Stream Channel Techniques and the creation of at least 2.9 acres of wetland habitat. Drawings of the proposed re-mining activity attached.

5. WATER QUALITY CERTIFICATION: This permit decision will not be made until the State of Ohio, Environmental Protection Agency (OEPA), issues, denies, or waives State Certification. This public notice does not serve as application to the OEPA for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the OEPA for individual water quality certification. The OEPA will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

Ohio Environmental Protection Agency
Division of Surface Water
Section 401 Coordinator
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Randy Bournique
Re: Public Notice CELRP-OP-F No. 07-36

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. On August 4, 5, 6, 7, 11, 12, and 13, 2005, EnviroScience performed a Mist-net survey to assess the presence of the Indiana Bat (*Myotis sodalis*). No Indiana bats were captured during the seven sampling nights at any of the 23 Net Sites. This Public Notice serves as a request to the U. S. Fish and Wildlife Service (USFWS) for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will

immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this

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office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.r.edris@lrp02.usace.army.mil. Please refer to CELRP-OP-F 2006-1083 (Public Notice No. 07-36) in all responses.

FOR THE DISTRICT ENGINEER:

Scott A. Hans
Acting Chief, Regulatory Branch